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6 IN THE UNITED STATES DISTRICT COURT FOR THE
7 EASTERN DISTRICT OF CALIFORNIA
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9 KENNETH WAYNE FICK,) No. CV-F-05-327 REC/SMS
10)
11 Plaintiff,) ORDER GRANTING COUNTY OF
12 vs.) FRESNO'S MOTION TO DISMISS,
13) VACATING ORAL ARGUMENT SET
14) FOR OCTOBER 3, 2005,
15) DISMISSING ACTION WITH
16) PREJUDICE, AND DIRECTING
17) CLERK TO ENTER JUDGMENT FOR
18) ALL DEFENDANTS
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17 By Order filed on August 4, 2005, the court directed
18 plaintiff to file a Second Amended Complaint. In so doing, the
19 court noted that the Amended Complaint filed by plaintiff
20 pursuant to Magistrate Judge Snyder's Order did not comply with
21 the substance of Magistrate Judge Snyder's Order. This court
22 ruled:

23 The Second Amended Complaint must contain a
24 short and plain statement of the grounds upon
25 which the court's subject matter jurisdiction
26 depends, a short and plain statement of the
claim(s) showing that plaintiff is entitled
to relief, and a demand for judgment for the

1 relief sought by the plaintiff. Each
2 defendant must be named in the caption and
3 the body of the Second Amended Second
4 Complaint. Plaintiff must allege with some
5 degree of particularity the overt acts which
6 each defendant engaged in that support
7 plaintiff's claim(s) against that defendant.
Plaintiff is informed that he cannot refer to
the prior Complaint or Amended Complaint.
Local Rule 15-220, Local Rules of Practice,
requires that an amended complaint be
complete in itself without reference to any
prior pleading.

8 The County of Fresno moves to dismiss this action on the
9 ground that the Second Amended Complaint is no more intelligible
10 than the Amended Complaint and does not comply with the
11 requirements to state a claim upon which relief can be granted
12 against any of the defendants named in this action. No timely
13 opposition to this motion to dismiss has been filed by plaintiff.

14 The court has reviewed the record and concurs with the
15 County of Fresno that the Second Amended Complaint does not
16 comply with the August 4 Order and does not state a claim upon
17 which relief can be granted. Plaintiff has been given two
18 opportunities to amend his pleading to state a claim and twice
19 has been advised of the appropriate pleading requirements.
20 Therefore, the court concludes that plaintiff is unable to plead
21 causes of action against each of the defendants named in his
22 complaint within this court's subject matter jurisdiction and
23 which will state a claim upon which relief can be granted. There
24 is no further purpose in conducting oral argument on the County
25 of Fresno's motion to dismiss under these circumstances,
26 especially since plaintiff has not filed a written opposition as

1 required by the Local Rules of Practice.

2 ACCORDINGLY:

3 1. The County of Fresno's motion to dismiss is granted.

4 2. Oral argument set for October 3, 2005 is vacated.

5 3. This action is dismissed with prejudice against all
6 defendants named in the Second Amended Complaint.

7 4. The Clerk of the Court is directed to enter judgment for
8 defendants.

9 IT IS SO ORDERED.

10 668554 Dated: September 26, 2005

/s/ Robert E. Coyle

UNITED STATES DISTRICT JUDGE